

Some background – General Policy

Title 62.1, Waters of the State, Ports & Harbors

Chapter 2, State Policy As To Waters.

§ 62.1–10. Definitions.

(a) "Water" includes all waters, **on the surface and under the ground**, wholly or partially within or bordering the Commonwealth or within its jurisdiction and which affect the public welfare.

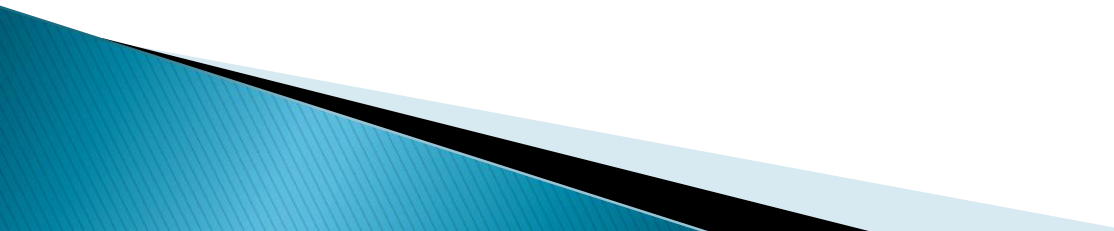
§ 62.1–11. Waters declared natural resource; state regulation and conservation; limitations upon right to use.

- A. Such waters are a natural resource which should be regulated by the Commonwealth.
- B. **The regulation, control, development and use of waters for all purposes beneficial to the public are within the jurisdiction of the Commonwealth which in the exercise of its police powers may establish measures to effectuate the proper and comprehensive utilization and protection of such waters.**

Policy As to Waters, cont.

§ 62.1-11, *continued.*

C. The changing wants and needs of the people of the Commonwealth may require the water resources of the Commonwealth to be put to uses beneficial to the public to the extent of which they are reasonably capable; **the waste or unreasonable use or unreasonable method of use of water should be prevented**; and the conservation of such water is to be exercised with a view to the welfare of the people of the Commonwealth and their interest in the reasonable and beneficial use thereof. ...



More background

Title 62.1, Waters of the State, Ports & Harbors
Chapter 3.1 –State Water Control Law.

§62.1–44.4. Control by Commonwealth as to water quality.

(1) No right to continue existing quality degradation in any state water shall exist nor shall such right be or be deemed to have been acquired by virtue of past or future discharge of sewage, industrial wastes or other wastes or other action by any owner. **The right and control of the Commonwealth in and over all state waters is hereby expressly reserved and reaffirmed.**

§62.1–44.3. Definitions.

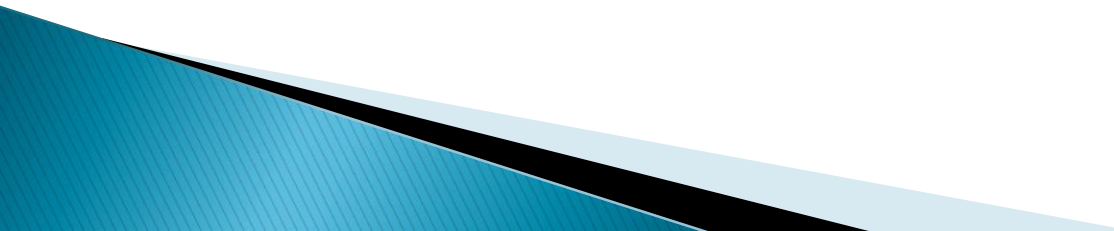
"State waters" means **all water, on the surface and under the ground**, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

More background

Title 62.1, Chapter 3.2. Conservation of Water Resources;
State Water Control Board

Va. Code § 62.1–44.36, Responsibility of State Water
Control Board; formulation of policy.

Being cognizant of the crucial importance of the Commonwealth's water resources to the health and welfare of the people of Virginia, and of the need of a water supply to assure further industrial growth and economic prosperity for the Commonwealth, and recognizing the necessity for continuous cooperative planning and effective state-level guidance in the use of water resources, **the State Water Control Board is assigned the responsibility for planning the development, conservation and utilization of Virginia's water resources. ...**



More background

§ 62.1–44.36, *continued.*

...In formulating the Commonwealth's water resources policy, the Board shall, among other things, take into consideration but not be limited to the following principles and policies:

(2) Adequate and safe supplies should be preserved and protected for human consumption, while conserving maximum supplies for other beneficial uses. When proposed uses of water are in mutually exclusive conflict or when available supplies of water are insufficient for all who desire to use them, preference shall be given to human consumption purposes over all other uses; ...

§ 62.1–44.40. Governor and General Assembly to be advised; annual report.

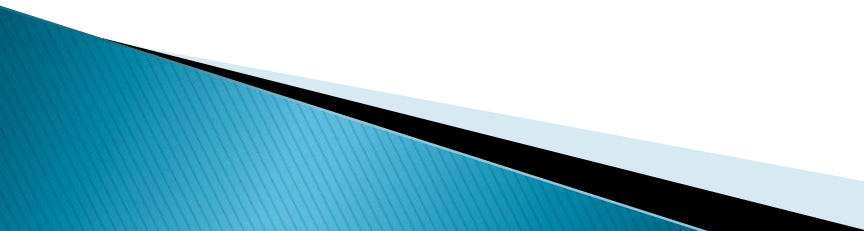
The Board shall submit an annual report to the Governor and the General Assembly on or before October 1 of each year on matters relating to the state's water resources policy and the status of the state's water resources, **including ground water.**

Prior Groundwater Law

The Groundwater Act of 1973 (§§ 62.1–44.45 – 62.1–44.69; repealed in 1992)

§ 62.1–44.55 (a): “There is hereby recognized and preserved the right of persons within critical groundwater areas to continue to apply ground water to beneficial uses to the extent of their beneficial uses thereof on the date such area is declared a critical groundwater area or on any date within two years prior to such date.”

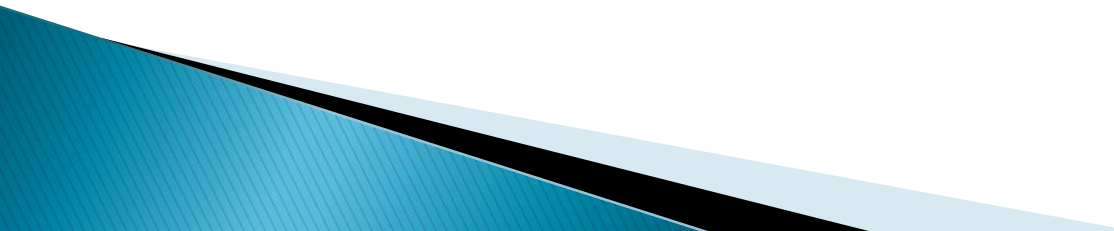
§ 62.1–44.55 (c): “The rights recognized and preserved by this section are expressly subject to the right and authority of the General Assembly or the Board ... to hereafter limit such rights should the General Assembly determine that the continued, unrestricted uses of groundwater contribute or will contribute to pollution or shortage of groundwater thereby jeopardizing the public health, safety or welfare.”




The Ground Water Management Act of 1992, § 62.1–254 et seq.

§ 62.1–254. Findings and purpose.

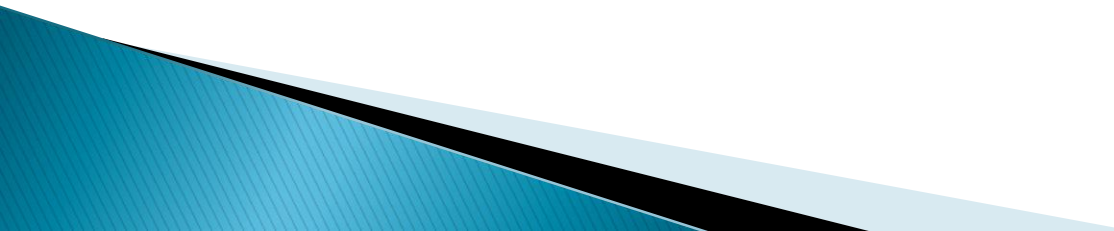
The General Assembly hereby determines and finds that, pursuant to the Groundwater Act of 1973, the continued, unrestricted usage of ground water is contributing and will contribute to pollution and shortage of ground water, thereby jeopardizing the public welfare, safety and health. It is the purpose of this Act to recognize and declare that the right to reasonable control of all ground water resources within this Commonwealth **belongs to the public** and that in order to conserve, protect and beneficially utilize the ground water of this Commonwealth and to ensure the public welfare, safety and health, **provision for management and control of ground water resources is essential.**



The Board's Powers – § 62.1–256

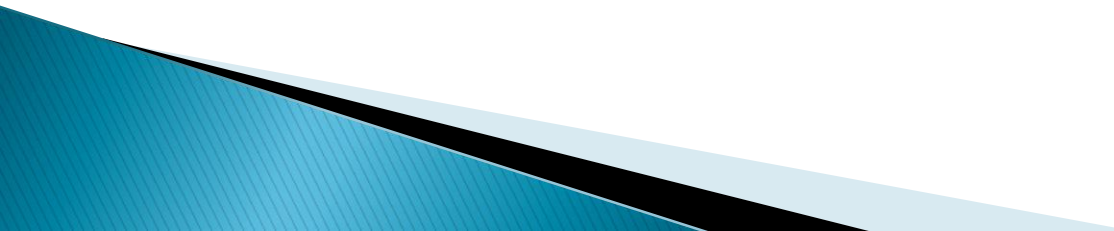
- ▶ To issue ground water withdrawal permits in accordance with regulations
 - ▶ To study, investigate and assess ground water resources and all problems concerned with the quality & quantity of ground water
 - ▶ To require any person withdrawing ground water, whether or not in a ground water management area, to furnish such information as may be necessary to carry out the provisions of the Act
 - ▶ To prescribe and enforce requirements that naturally flowing wells be plugged, destroyed, or capped when ground water is not being applied to a beneficial use
 - ▶ Plus – To issue special orders (§ 62.1–268) and special exceptions to allow the withdrawal of ground water in unusual situations (§ 62.1–267).
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Groundwater Withdrawal Permits

- 2 Ground Water Management Areas: Eastern Shore and Eastern Virginia
 - Permits required in GWMA for withdrawals of 300,000 gallons/month or more. Based on historic usage (although withdrawers may request that they be allowed to withdraw more due to certain factors).
 - Permits have 10-year terms.
 - Applicants must include with application a water conservation & management plan approved by the Board.
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Criteria for issuing permits – §62.1-263

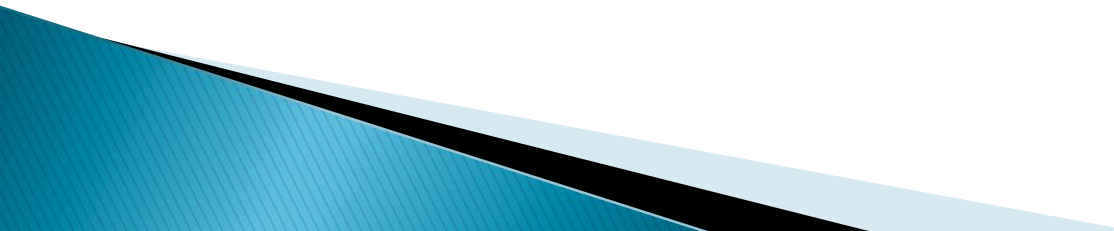
When reviewing an application for a permit or permit amendment, the Board may consider:

- the nature of the proposed beneficial use
 - the proposed use of alternate or innovative approaches such as aquifer storage and recovery systems and surface and ground water conjunctive uses
 - climatic & economic cycles
 - unique requirements for nuclear power stations
 - population projections
 - the status of land use and other necessary approvals, and
 - the adoption and implementation of the applicant's water conservation and management plan.
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Criteria for issuing permits – §62.1–263 (continued)

A permit cannot be issued for more ground water than can be applied to the proposed beneficial use. When proposed uses of ground water are in conflict or when available supplies of ground water are insufficient for all who desire to use them, **preference shall be given to uses for human consumption, over all others.**

In evaluating permit applications, the Board shall ensure that the maximum possible safe supply of ground water will be **preserved and protected for all other beneficial uses.**



What does giving preference to uses of ground water for “human consumption” mean?

Groundwater Withdrawal Regulations:

9VAC25–610–10. Definitions.

"Human consumption" means the use of water to support human survival and health, including drinking, bathing, showering, cooking, dishwashing, and maintaining hygiene.

How is that priority to be implemented?



How GWMA's are Developed –

§62.1–257

The Board upon its own motion or at a locality's request may initiate a ground water management area proceeding, if it believes that:

- ▶ 1. Ground water levels in the area are declining or are expected to decline excessively;
- ▶ 2. The wells of 2 or more ground water users are interfering/may interfere substantially with one another;
- ▶ 3. The available ground water supply has been or may be overdrawn; or
- ▶ 4. The ground water in the area has been or may become polluted.

If the Board finds that any 1 of these conditions exists, and that the public welfare, safety & health require it, the Board shall by regulation declare the area to be a GWMA.



New in 2015: Well Registration (§62.1-258)

- Each private well constructed in a ground water management area shall be registered by the certified water well systems provider with the Board within 30 days of the completion of the construction
 - Developing a joint form for registering well with SWCB and applying for VDH permit
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